

### United States Patent and Trademark Office



UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20221
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/788,475	02/21/2001	Jerre Wayne Mohler	FWS-3667	6204
7	590 04/09/2003			
E. Philip Kolt	os	EXAMINER		
U.S. Departme	neral Law Office of th nt of the Interior	MORAN, TIMOTHY J		
1849 C Street 1 Washington, D	•	ART UNIT	PAPER NUMBER	
	•		2878	
			DATE MAIL ED: 04/09/2003	

Please find below and/or attached an Office communication concerning this application or proceeding.

Application No.  OB/788 475  Examin r  Timothy J. Moran  The MAILING DATE of this communication appears on the cover sheet with the correspondence address —  Period for Reply  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM  THE MAILING DATE of THIS COMMUNICATION  Extensive of intering the selection more than providence of 37 CPR 1 13661. In ore vent, however, reay a reply be three yilled  The providence of the reply appeted above the size has their (s) days, a reply within the seatubly minimum of their, (30) days yet like considered sinely.  If the prior for reply is period above, the maximum statutory period will apply any will come St. 69 MoNTH (S) from the mailing date of this communication, even if limiting the considered sinely.  If the prior for reply is a period date, the state more prior and the replace of the mailing date of this communication, even if limiting field, may reduce arry  Any reply received by the Office time to these more and will apply any will come St. 69 MoNTH (S) from the mailing date of this communication, even if limiting field, may reduce arry  Any reply received by the Office time to the replace of the mailing date of this communication, even if limiting field, may reduce arry  Any reply received by the Office time to the replace of the mailing date of this communication, even if limiting field nay reduce arry  Any replaced by the Office and the practice under Exparte Quayle, 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  4) Claim(s) 1.10 Instance pending in the application.  4) Of the above claim(s) is is seried and the practice under Exparte Quayle, 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  4) Claim(s) 1.2 and 5.10 Israe rejected.  7) Claim(s) 1.2 and 5.10 Israe rejected.  7) Claim(s) 1.2 and 5.10 Israe rejected.  7) Claim(s) 1.2 and 5.10 Israe rejected to by the Examiner.  Application Papers  9) The proposed drawing are required in reply to this Office action.  11) The cantin or equest that any objection to the drawing(s) be held in abeya							
Examin r Timothy J. Moran  278	1.	•	Application No.	Applicant(s)			
Timothy J. Moran  2878  The MAILING DATE of this communication appears on the cover sheet with the correspondence address —  Period for Reply  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.  The MAILING DATE OF THIS COMMUNICATION.  If the period for reply specified above is less time thinly (0) days, a reply within the statisticy inflower, may a reply be limitly filled  after Stic (9) MONTH'S from the mailing date of this communication.  If the period for reply specified above is less time thinly (0) days, a reply within the statisticy inflower, microur or high period date, the mailing date of this communication.  If the period for reply specified above is less time thinly (0) days, a reply within the statisticy inflower, microur or high period of the specified and the specified and the period of the specified and specifi	Office Action Summary		09/788,475	MOHLER, JERRE WAYNE			
The MALLING DATE of this communication appears on the cover sheet with the correspondence address = Period for Reply  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MALLING DATE OF THIS COMMUNICATION.  Earlieson's of interrary to available under the prevention of 3 CFR 1-130(a). In revert, however, may a ricely be limited by the proof of			Examin r	Art Unit			
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MALLING DATE OF THIS COMMUNICATION.  Estrations or time may be available under the provision of 3 CCR1 1, 13(e), is no event, however, may a reply be timely fled after SIX (6) MONTHS from the malling list of this communication.  If the pearod to reply selected above is less than they (30) days, and the considered timely.  If the pearod to reply selected above is less than they considered apply and will apply on will apply on the selection of the pearod of the communication.  If a pearod to reply within the selection of the malling and the selection of the pearod of the communication of the selection of the pearod of the selection of the pearod of the selection of the pearod of the selection of the selec		The MAIL INC DATE of the					
THE MAILING DATE OF THIS COMMUNICATION.  Extensions of time may be available under the proximation of 3 CPR 1 135(a). In or event, however, may a riply be simely filed after SIX (6) MOSTHYS from the mailing date of this communication.  If NO period for riply is specified above, the maximum statistical profiled help by and will expect SIX (6) MOSTHS from the mailing date of this communication.  Failure to reply within the set or extended period for reply will be statistically minimum of thiny (20) days will be considered intelly.  Failure to reply within the set of extended period for reply will be statistically profiled and set. (6) MOSTHS from the mailing date of this communication, even if timely filed, may reduce any.  Ally set of reviewed by the Office debute than there emotives after the mailing date of this communication, even if timely filed, may reduce any.  Status  1) Responsive to communication(s) filed on	Period fo	The MAILING DATE of this communication app ir Reply	ears on the cover sheet with the c	correspondence address			
1) Responsive to communication(s) filed on	<ul> <li>Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.</li> <li>If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.</li> <li>If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.</li> <li>Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).</li> <li>Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).</li> </ul>						
2a)  This action is FINAL. 2b) This action is non-final.  3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  4) Claim(s) 1-10 is/are pending in the application.  4a) Of the above claim(s) is/are withdrawn from consideration.  5) Claim(s) 3 and 4 is/are allowed.  6) Claim(s) 1, 2, and 5-10 is/are rejected.  7) Claim(s) 3 is/are objected to.  8] Claim(s) 3 is/are objected to.  Application Papers  9) The specification is objected to by the Examiner.  Application Papers  9) The proposed drawing correction filed on is/are: a) accepted or b) objected to by the Examiner.  Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  11) The proposed drawing correction filed on is: a) approved b) disapproved by the Examiner.  If approved, corrected drawings are required in reply to this Office action.  12) The oath or declaration is objected to by the Examiner.  Priority under 35 U.S.C. §§ 119 and 120  13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a) All b) Some * c) None of:  1. Certified copies of the priority documents have been received in Application No  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  *See the attached detailed Office action for a list of the certified copies not received.  14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  a) The translation of the foreign language provisional application has been received.  15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 120 and/or 121.		Responsive to communication(s) filed on					
3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  4) Claim(s) 1-10 is/are pending in the application.  4a) Of the above claim(s) is/are withdrawn from consideration.  5) Claim(s) 3 and 4 is/are allowed.  6) Claim(s) 1, 2, and 5-10 is/are rejected.  7) Claim(s) 3 is/are objected to.  8) Claim(s) are subject to restriction and/or election requirement.  Application Papers  9) The specification is objected to by the Examiner.  10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner.  Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  11) The proposed drawing correction filed on is: a) approved b) disapproved by the Examiner.  If approved, corrected drawings are required in reply to this Office action.  12) The oath or declaration is objected to by the Examiner.  Priority under 35 U.S.C. §§ 119 and 120  13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a) All b) Some * c) None of:  Certified copies of the priority documents have been received.  2 Certified copies of the priority documents have been received in Application No  3 Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  *See the attached detailed Office action for a list of the certified copies not received.  14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 119(e) (to a provisional application).  a) The translation of the foreign language provisional application has been received.  15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.  Attachment(s)	· —						
Disposition of Claims  4) ○ Claim(s) 1-10 Is/are pending in the application.  4a) Of the above claim(s)	′=	,_		resocution as to the marita is			
4a) Of the above claim(s) is/are withdrawn from consideration.  5) □ Claim(s) 3 and 4 is/are allowed.  6) □ Claim(s) 1, 2, and 5-10 is/are rejected.  7) □ Claim(s) 3 is/are objected to.  8) □ Claim(s) are subject to restriction and/or election requirement.  Application Papers  9) □ The specification is objected to by the Examiner.  10) □ The drawing(s) filed on is/are: a) □ accepted or b) □ objected to by the Examiner.  Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  11) □ The proposed drawing correction filed on is: a) □ approved b) □ disapproved by the Examiner.  If approved, corrected drawings are required in reply to this Office action.  12) □ The oath or declaration is objected to by the Examiner.  Priority under 35 U.S.C. §§ 119 and 120  13) □ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a) □ All b) □ Some * c) □ None of:  1. □ Certified copies of the priority documents have been received.  2. □ Certified copies of the priority documents have been received in Application No  3. □ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  * See the attached detailed Office action for a list of the certified copies not received.  14) □ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.  Attachment(s)  15) □ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.  Attachment(s)  16 □ Notice of References Cited (PTO-892)  20 □ Notice of Draftsperson's Patent Drawing Review (PTO-948)	closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11, 453 O.G. 213.						
5)  Claim(s) 3 and 4 is/are allowed. 6)  Claim(s) 1, 2, and 5-10 is/are rejected. 7)  Claim(s) 3 is/are objected to. 8)  Claim(s) are subject to restriction and/or election requirement. Application Papers  9)  The specification is objected to by the Examiner. 10)  The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner.   Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). 11)  The proposed drawing correction filed on is: a) approved b) disapproved by the Examiner.   If approved, corrected drawings are required in reply to this Office action. 12)  The oath or declaration is objected to by the Examiner.  Priority under 35 U.S.C. §§ 119 and 120  13)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).   a) All b) Some *c) None of:   1.  Certified copies of the priority documents have been received. 2.  Certified copies of the priority documents have been received in Application No 3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).   * See the attached detailed Office action for a list of the certified copies not received.  14)  Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).   a)  The translation of the foreign language provisional application has been received.  15)  Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.  Attachment(s)  1 Interview Summary (PTO-413) Paper No(s)  1 Notice of References Cited (PTO-892)  2 Onotice of Informal Patent Application (PTO-152)	4)[	Claim(s) 1-10 is/are pending in the application.					
5)  Claim(s) 3 and 4 is/are allowed. 6)  Claim(s) 1, 2, and 5-10 is/are rejected. 7)  Claim(s) 3 is/are objected to. 8)  Claim(s) are subject to restriction and/or election requirement. Application Papers  9)  The specification is objected to by the Examiner. 10)  The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner.   Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). 11)  The proposed drawing correction filed on is: a) approved b) disapproved by the Examiner.   If approved, corrected drawings are required in reply to this Office action. 12)  The oath or declaration is objected to by the Examiner.  Priority under 35 U.S.C. §§ 119 and 120  13)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).   a) All b) Some *c) None of:   1.  Certified copies of the priority documents have been received. 2.  Certified copies of the priority documents have been received in Application No 3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).   * See the attached detailed Office action for a list of the certified copies not received.  14)  Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).   a)  The translation of the foreign language provisional application has been received.  15)  Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.  Attachment(s)  1 Interview Summary (PTO-413) Paper No(s)  1 Notice of References Cited (PTO-892)  2 Onotice of Informal Patent Application (PTO-152)							
7) Claim(s) 3 is/are objected to.  8) Claim(s) are subject to restriction and/or election requirement.  Application Papers  9) The specification is objected to by the Examiner.  10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner.  Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  11) The proposed drawing correction filed on is: a) approved b) disapproved by the Examiner.  If approved, corrected drawings are required in reply to this Office action.  12) The oath or declaration is objected to by the Examiner.  Priority under 35 U.S.C. §§ 119 and 120  13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a) All b) Some * c) None of:  1. Certified copies of the priority documents have been received.  2. Certified copies of the priority documents have been received in Application No 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  * See the attached detailed Office action for a list of the certified copies not received.  14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 119(e) (to a provisional application).  a) The translation of the foreign language provisional application has been received.  15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.  Attachment(s)  Notice of References Cited (PTO-892)  2) Notice of Informal Patent Application (PTO-152)							
8	6)⊠	Claim(s) <u>1, 2, and 5-10</u> is/are rejected.					
Application Papers  9) ☐ The specification is objected to by the Examiner.  10) ☐ The drawing(s) filed on is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  11) ☐ The proposed drawing correction filed on is: a) ☐ approved b) ☐ disapproved by the Examiner.  If approved, corrected drawings are required in reply to this Office action.  12) ☐ The oath or declaration is objected to by the Examiner.  Priority under 35 U.S.C. §§ 119 and 120  13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a) ☐ All b) ☐ Some * c) ☐ None of:  1. ☐ Certified copies of the priority documents have been received.  2. ☐ Certified copies of the priority documents have been received in Application No  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  * See the attached detailed Office action for a list of the certified copies not received.  14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  a) ☐ The translation of the foreign language provisional application has been received.  15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.  Attachment(s)  1) ☑ Notice of References Cited (PTO-892)  2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-158)	7)🖂	Claim(s) <u>3</u> is/are objected to.					
10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner.  Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  11) The proposed drawing correction filed on is: a) approved b) disapproved by the Examiner.  If approved, corrected drawings are required in reply to this Office action.  12) The oath or declaration is objected to by the Examiner.  Priority under 35 U.S.C. §§ 119 and 120  13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a) All b) Some * c) None of:  1. Certified copies of the priority documents have been received.  2. Certified copies of the priority documents have been received in Application No  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  * See the attached detailed Office action for a list of the certified copies not received.  14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  a) The translation of the foreign language provisional application has been received.  15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.  Attachment(s)  1) Notice of References Cited (PTO-892)  3) Notice of Draftsperson's Patent Drawing Review (PTO-948)  5) Notice of Informal Patent Application (PTO-152)							
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  11) The proposed drawing correction filed on is: a) approved b) disapproved by the Examiner. If approved, corrected drawings are required in reply to this Office action.  12) The oath or declaration is objected to by the Examiner.  Priority under 35 U.S.C. §§ 119 and 120  13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a) All b) Some * c) None of:  1. Certified copies of the priority documents have been received.  2. Certified copies of the priority documents have been received in Application No  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  * See the attached detailed Office action for a list of the certified copies not received.  14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  a) The translation of the foreign language provisional application has been received.  15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.  Attachment(s)  1) Notice of References Cited (PTO-892)  2) Notice of Praftsperson's Patent Drawing Review (PTO-948)	9) The specification is objected to by the Examiner.						
11) The proposed drawing correction filed on is: a) approved b) disapproved by the Examiner.  If approved, corrected drawings are required in reply to this Office action.  12) The oath or declaration is objected to by the Examiner.  Priority under 35 U.S.C. §§ 119 and 120  13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a) All b) Some c) None of:  1. Certified copies of the priority documents have been received.  2. Certified copies of the priority documents have been received in Application No  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  * See the attached detailed Office action for a list of the certified copies not received.  14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  a) The translation of the foreign language provisional application has been received.  15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.  Attachment(s)  1) Notice of References Cited (PTO-892)  2) Notice of Draftsperson's Patent Drawing Review (PTO-948)	10) The drawing(s) filed on is/are: a) □ accepted or b) □ objected to by the Examiner.						
If approved, corrected drawings are required in reply to this Office action.  12) The oath or declaration is objected to by the Examiner.  Priority under 35 U.S.C. §§ 119 and 120  13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a) All b) Some * c) None of:  1. Certified copies of the priority documents have been received.  2. Certified copies of the priority documents have been received in Application No.  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  * See the attached detailed Office action for a list of the certified copies not received.  14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  a) The translation of the foreign language provisional application has been received.  15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.  Attachment(s)  1) Notice of References Cited (PTO-892)  2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  5) Notice of Informal Patent Application (PTO-152)	Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).						
12) The oath or declaration is objected to by the Examiner.  Priority under 35 U.S.C. §§ 119 and 120  13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a) All b) Some * c) None of:  1. Certified copies of the priority documents have been received.  2. Certified copies of the priority documents have been received in Application No  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  * See the attached detailed Office action for a list of the certified copies not received.  14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  a) The translation of the foreign language provisional application has been received.  15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.  Attachment(s)  1) Notice of References Cited (PTO-892)  2) Notice of Draftsperson's Patent Drawing Review (PTO-948)	11)☐ The proposed drawing correction filed on is: a)☐ approved b)☐ disapproved by the Examiner.						
Priority under 35 U.S.C. §§ 119 and 120  13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a) All b) Some * c) None of:  1. Certified copies of the priority documents have been received.  2. Certified copies of the priority documents have been received in Application No.  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  * See the attached detailed Office action for a list of the certified copies not received.  14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  a) The translation of the foreign language provisional application has been received.  15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.  Attachment(s)  1) Notice of References Cited (PTO-892)  2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  5) Notice of Informal Patent Application (PTO-152)	· · · · · · · · · · · · · · · · · · ·						
13)   Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a)   All b)   Some * c)   None of:  1.	12) The oath or declaration is objected to by the Examiner.						
a) All b) Some * c) None of:  1. Certified copies of the priority documents have been received.  2. Certified copies of the priority documents have been received in Application No.  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  * See the attached detailed Office action for a list of the certified copies not received.  14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  a) The translation of the foreign language provisional application has been received.  15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.  Attachment(s)  1) Notice of References Cited (PTO-892)  2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  5) Notice of Informal Patent Application (PTO-152)	Priority under 35 U.S.C. §§ 119 and 120						
1. Certified copies of the priority documents have been received.  2. Certified copies of the priority documents have been received in Application No.  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  * See the attached detailed Office action for a list of the certified copies not received.  14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  a) The translation of the foreign language provisional application has been received.  15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.  Attachment(s)  1) Notice of References Cited (PTO-892)  4) Interview Summary (PTO-413) Paper No(s).  5) Notice of Informal Patent Application (PTO-152)	<u> </u>						
2. Certified copies of the priority documents have been received in Application No	a) All b) Some * c) None of:						
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  * See the attached detailed Office action for a list of the certified copies not received.  14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  a) The translation of the foreign language provisional application has been received.  15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.  Attachment(s)  1) Notice of References Cited (PTO-892)  4) Interview Summary (PTO-413) Paper No(s).  5) Notice of Informal Patent Application (PTO-152)		1. Certified copies of the priority documents have been received.					
application from the International Bureau (PCT Rule 17.2(a)).  * See the attached detailed Office action for a list of the certified copies not received.  14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  a) The translation of the foreign language provisional application has been received.  15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.  Attachment(s)  1) Notice of References Cited (PTO-892)  4) Interview Summary (PTO-413) Paper No(s).  2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  5) Notice of Informal Patent Application (PTO-152)							
a) The translation of the foreign language provisional application has been received.  15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.  Attachment(s)  1) Notice of References Cited (PTO-892)  2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  4) Interview Summary (PTO-413) Paper No(s).  5) Notice of Informal Patent Application (PTO-152)	application from the International Bureau (PCT Rule 17.2(a)).						
15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.  Attachment(s)  1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 4) Interview Summary (PTO-413) Paper No(s) 5) Notice of Informal Patent Application (PTO-152)	14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).						
Attachment(s)  1) Notice of References Cited (PTO-892)  2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  4) Interview Summary (PTO-413) Paper No(s)  5) Notice of Informal Patent Application (PTO-152)							
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  5) Notice of Informal Patent Application (PTO-152)							
S. Patent and Trademark Office	2) Notice 3) Inform	of Draftsperson's Patent Drawing Review (PTO-948) ation Disclosure Statement(s) (PTO-1449) Paper No(s) <u>6</u> .	5) Notice of Informal P				

Art Unit: 2878

#### **DETAILED ACTION**

#### Information Disclosure Statement

The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

### Claim Objections

Claim 3 is objected to because of the following informalities: The term "thought" in line 9 should be replaced with --through--. Appropriate correction is required.

## Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-2, 5, and 10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "the long pass filter" in line 11. There is insufficient antecedent basis for this limitation in the claim since the terms "long pass" and "longpass" are not equivalent. Note also that the term "a barrier or longpass filter" in line 8 implies that a longpass filter may not be present. Note also that the term "between a line of sight and the long pass filter" in lines 10-11 is unclear since it implies that the

Art Unit: 2878

long pass filter is separated from the line of sight, while the figures show that the filter (8) is along the line of sight.

Claim 5 recites the limitation "longpass barrier filter" in line 2. There is insufficient antecedent basis for this limitation in either claim or claim 3.

Claim 10 recites the limitation "the barrier filter" in lines 1-2. There is insufficient antecedent basis for this limitation in this claim.

# Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-2 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Coates, U. S. Patent No. 4,884,890. Regarding claim 1, Coates describes a device (fig. 1) for detecting visible fluorescence comprising a light source (10), an exciter filter (14), a dichroic beamsplitter (16, col. 2, lines 27-35), a barrier filter (24) and an achromatic lens (24). Here the term "achromatic lens" is understood to mean "a lens which transmit light of various wavelengths equally well." Note that the term "between a line of sight and the long pass filter" is has not been addressed.

Regarding claim 2, Coates describes the use of a mercury lamp (col. 2, lines 27-35).

Regarding claim 6, Coates describes a method for examining a sample comprising contacting a sample with light transmitted through a dichroic beamsplitter

Art Unit: 2878

(16, col. 2, lines 27-35), and observing light emitted from the sample through the beamsplitter (fig. 1). Regarding the term "fluorochrome," the description of the sample as "fluorescent" (see abstract) is understood to imply that the sample comprises a fluorochrome.

Claim 6 is rejected under 35 U.S.C. 102(b) as being anticipated by Metz, U.S. Patent No. 5,166,813. Metz describes a method for examining a sample comprising contacting a sample with light transmitted through a dichroic beamsplitter (14, col. 9, lines 45-53), and observing light emitted from the sample through the beamsplitter (fig. 1). Regarding the term "fluorochrome," the description of the sample as "fluorescent" (see abstract) is understood to imply that the sample comprises a fluorochrome.

Claim 6 is rejected under 35 U.S.C. 102(b) as being anticipated by Neel, U.S. Patent No. 5,639,668. Neel describes a method for examining a sample comprising contacting a sample with light transmitted through a dichroic beamsplitter (38, col. 9, lines 39-40), and observing light emitted from the sample through the beamsplitter (fig. 1). Regarding the term "fluorochrome," the description of the sample as "fluorescent" (see abstract) is understood to imply that the sample comprises a fluorochrome.

## Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Art Unit: 2878

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Neel as applied to claim 6 above, and further in view of Chu, U. S. Patent No. 5,440,927. Chu describes a method for examining a sample to detect fluorescence where calcein (col. 4, lines 13-30) is used as a fluorochrome to enable moisture detection. Therefore it would have been obvious to one of ordinary skill in the art to use calcein in the method of Neel to enable moisture detection.

Claims 8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Neel as applied to claim 6 above, and further in view of Eckstrom, U. S. Patent No. 5,324,940. Neel teaches a method for examining a biological sample, but does not teach that the method is applied to live animals or salmon. However, Eckstrom teaches that fluorescence detection of live fish is useful for identification purposes. Therefore, it would have been obvious to one of ordinary skill in the art to use the detection method of Neel to analyze live animals such as salmon for the advantages of accurate identification.

## Allowable Subject Matter

Claims 3-4 are allowed.

Claims 5 and 10 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: Claim 3 includes the limitations that a fluorescence detection device comprises a light guide, an excitation or bandpass filter, a dichroic beamsplitter, and a separate

Art Unit: 2878

longpass or barrier filter. Claim 10 includes the limitations that a barrier filter located in eyeglasses is used with a beamsplitter to analyze a live animal specimen.

#### Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy J. Moran whose telephone number is 703-305-0849. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Porta can be reached on 703-308-4852. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-7724 for regular communications and 703-308-7724 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

T.M.

April 1, 2003

**GROUP ART UNIT 2878**